



E-bulletin of the World Organisation against Torture on the session of the
Committee against Torture of the United Nations

N°1

Executive Summary:

- 47th Session of the Committee against Torture:

This 47th session took place in Geneva at the office of the United Nations – Palais Wilson from 31 October to 25 November 2011. The examined states were: **Belarus, Bulgaria, Djibouti, Germany, Greece, Madagascar, Morocco, Paraguay and Sri-Lanka.**

- Syria: Special Report:

The Committee asked Syria to submit a special report in light of **serious allegations** of the **widespread and systematic** use of torture and ill-treatment in the country.

- General Comment n°3:

The Committee considered in a public session draft **General Comment n°3** on the right to remedy and reparation for victims of torture (**Article 14** CAT), to which the OMCT had provided written comments.

- 48th Session of the Committee against Torture:

The next CAT session will take place from May 7 to June 1, 2012, and consider state reports from: **Albania, Armenia, Cuba, the Czech Republic, Canada, Greece, Rwanda, Mexico, Syrian Arab Republic.**

47th Session of CAT:

During this session the following **nine State parties were scheduled to** present their reports about the implementation of the Convention against torture and other cruel, inhuman and degrading treatment: **Belarus, Bulgaria, Djibouti, Germany, Greece, Madagascar, Morocco, Paraguay and Sri-Lanka.**



GREECE

The consideration of the state report of Greece had to be **postponed to the next session** due to the last minute cancellation by the state delegation as a result of the government crisis in Greece.

For a second time in a row Greece canceled the presentation of one of its reports to the UN treaty bodies following a last minute notification at the last session of the **Committee on the Rights of the Child (CRC)**.

See the [shadow report](#) submitted by the OMCT jointly with the **Greek Helsinki Monitor**, a member of the **SOS-Torture network** of OMCT, The Coordinated Organizations and Communities for Roma Human Rights in Greece, and Minority Rights Group – Greece.

This report emphasizes the lack of progress by the authorities in improving the **situation of detainees** in both police stations and in prisons characterized by notorious overcrowding. A major concern is the excessive use of force by state agents against the **Roma minority** especially in the context of forced **eviction**.

Impunity prevails in numerous cases of human trafficking in which access to justice for victims remains particularly problematic.

Finally the report also shows the lack of implementation of the Committee's previous recommendations.



MADAGASCAR

In its recommendations for the state of Madagascar the Committee against Torture asks the authorities to carry out independent, impartial and thorough investigations concerning cases of torture and ill-treatment.

The Committee expresses its concerns about the absence of adequate sanctions **for acts** of torture and ill-treatment as the level of punishment remains at **the sole discretion** of the judge. The Committee calls for a **revision of the law against torture**.

Amongst other issues the Committee raised concerns over the **poor prison conditions**, the **non-separation of detainees**, malnutrition and the absence of medical care leading to the death of certain detainees, and systemic **overcrowding** of the prisons.

The State party is invited to take **appropriate measures** to conduct prompt, impartial and effective investigations concerning the Human Rights violations including cases of torture and ill-treatment, summary executions and enforced disappearances in order to ensure that those responsible are effectively prosecuted and sanctioned. It specifically recalls in light of the political crisis in the country that no circumstances, such as political instability, can in any way justify acts of torture or ill-treatment.

Follow-up recommendations : ensure the enforcement of **fundamental legal safeguards** for detainees, conduct **prompt, impartial and effective** investigations, prosecute suspects and sanction perpetrators of torture and ill-treatment, and to ensure that victims of torture and ill-treatment have access to **as full reparation as possible**. The Committee further asks for follow-up information on the Committee's recommendation regarding the practice of the authorities to detain closed relatives and family members in order to force suspects to hand themselves in.

[Useful Links:](#)

- [Concluding observations and recommendations of the CAT](#)
- See the [alternative report](#) submitted jointly by the OMCT with ACAT Madagascar, member of the SOS Torture Network, and FIACAT.
- See the [information sheet about the briefing](#) organized by the OMCT with ACAT Madagascar, member of the **SOS-Torture network** of OMCT.
- [Press Communication – OMCT – ACAT Madagascar – FIACAT](#)



MOROCCO

Following the consideration of the 4th periodic report of Morocco the Committee adopted a series of recommendations for Morocco to be implemented over the next years.

The Committee recognized the significant progress made through recent reforms as well as the ratification of international treaties and acceptance of CAT's competence to receive individual communications. However, the Committee asked Morocco to take various measures to ensure an effective prevention and accountability for acts of torture and other ill-treatment.

The Committee asked the State party to ensure that the current law reforms reflect fully **the definition of torture** in Article 1 of the Convention against Torture. The Committee is concerned about the lack of **fundamental legal guarantees** for those detained and recommended notably to ensure access to a lawyer from the very outset of detention without prior authorization, the right to be examined by an independent doctor and to be fully informed of his/her rights.

The Committee noted especially the need to reform the anti-terrorist law, highlighted the prohibition of both secret detention and secret inter-state transfers, and addressed the **allegations of detention by the DST** (intelligence agency) in Témara. It calls for a full and independent investigation into these allegations. It also recommends measures to ensure that any state agent, including members of the DST, respect the **absolute prohibition of torture**. The Committee also adopted a series of recommendations in relation to allegations of torture and ill-treatment and impunity for such acts in the Western Sahara, notably regarding the events in **Camp Gdeim Izik** in 2010.

The Committee recalls the States duty according to **article 3** of the Convention of **non-refoulement** of persons to a country where he /she is at risk of being subjected to torture and all other cruel, inhuman and degrading treatment. It recommends the State also to increase its **cooperation with the human rights bodies** of the U.N., to ratify the core U.N. Human Rights treaties to which it is not yet a party as well as to create and strengthen training programs for various state agencies in order to ensure their knowledge about the dispositions of the Convention.

Follow-up recommendations: To ensure and reinforce the judicial guarantees for detainees, conduct prompt, impartial and effective investigations, to pursue the suspects and sanction the perpetrators of acts of torture or ill-treatment, assure victims of torture and ill-treatment as full reparation as possible, and to provide information on the reform of the law against terrorism.

Useful Links:

- [Concluding observations and recommendations of the CAT](#)
- [Alternative report of OMCT and his partners in Morocco](#) (Moroccan Committee against Torture, OMDH and AMDH)

- See also the [note about the briefings](#) organized by OMCT with its members of the SOS-Torture network, **l'Organisation Marocaine des Droits de l'Homme (OMDH)** **l'Association Marocaine des Droits de l'Homme (AMDH)**.



PARAGUAY

The OMCT accompanied the members of the **Coordinadora de Derechos Humanos de Paraguay** (CODEHUPY) at the presentation of their alternative report before the Committee against Torture (CAT) on 2 November 2011. CODEHUPY is a network composed of 23 social organisations of Paraguay and 5 partner organisations working together to defend Human Rights.

The Committee is concerned over the persistent scope of allegations of torture and ill-treatment of detainees especially by the police.

The Committee is also concerned over the **ineffectiveness** of existing mechanisms to **control and monitor** the police **and the absence of redress and reparation** and rehabilitation for victims of torture and ill-treatment (article 2, 12, 13, 14 and 16).

The repeated and standard use of **preventive detention** (instead of being an exceptional measure) and the neglect of alternative measures pending trial was also part of the elements brought up by the Committee. The Committee recalls its previous recommendation (A/55/44, para. 151) for the state party to ensure that the **definition of torture** encompasses all the elements of article 1 of the Convention.

It recommends the State party to take effective measures to ensure in law and practice the non-admissibility of evidence as result of torture in conformity with the obligations under **article 15** of the Convention.

Follow-up recommendations: Provide further information on the **recommendations** of the Committee concerning the **access to and reinforcement** of judicial guarantees for detainees, conduct prompt, impartial and effective investigations, pursue suspects and to **punish perpetrators of torture** and other ill-treatment. Furthermore, the Committee asks for information about the measures taken to prevent, fight and to **eradicate trafficking in persons**.

Useful Links:

- [Concluding observations and recommendations of the CAT](#)
- See the [alternative report](#) submitted by **CODEHUPY**, accompanied by the OMCT on the occasion of the session.
- See the [key points](#) claimed in the presentation of the report of CODEHUPY



SRI-LANKA

The Experts of the Committee focused on the persistent use of torture and inhuman treatment with continuous impunity following the end of the conflict with the LTTE. The Committee expressed its concern over the existence of **secret detention facilities**, the large number of **enforced disappearances** due, amongst others, to the sweeping powers granted under the **anti-terrorist legislation and regulation (PTA)** and the lifting of the state of emergency on 31 August 2011 while introducing counter-terrorism regulations

providing even fewer guarantees in detention than those previously provided under emergency regulations.

The Committee examined the practice of **coerced confessions**, the rules of admissibility under the Prevention of Terrorism Act which allows the introduction of confessions made to the police while placing the burden of proof that the statement was coerced on the accused. The Committee was also concerned about the risks and threats to **Human Rights Defenders**, witnesses and victims that question **impunity** as well as the lack of special attention for **vulnerable groups** like internally displaced persons, women and children.

The Committee expresses its concern about the lack of **effective guarantees** against torture during the time of detention including in so-called « **rehabilitation centres** », « **welfare centre** » as well as military camps. The Committee criticizes the **prevailing climate of impunity** for torture in Sri Lanka. In this regard it notes a series of shortcomings and lack of independence of the « **Lessons Learnt and Reconciliation Commission (LLRC)** » and expresses concern over the lack of investigations and legal sanctions for torture. The Committee thus recommends an independent **international investigatory body which would overcome shortcomings of past inquiries**.

Follow-up recommendations: Ensure and strengthen the **legal safeguards** for detainees, conduct **prompt, impartial and effective investigations**, prosecute suspects and sanction perpetrators of torture. The Committee also asks for information about the **redress and reparation** of victims.

Useful Links:

- [Concluding observations and recommendations of the CAT](#)



BELARUS

The Committee is highly concerned about the practice of torture and inhuman treatment in Belarus namely the lack of safeguards and the climate of impunity. Among the essential recommendations it asks that **fundamental legal safeguards** are afforded from the very outset of the detention, and asks to ensure the non-admissibility of evidence obtained as a result of torture. The committee notes the arrests made by officers in plain clothing and asks to ensure the **identification** of all law enforcement officers, including those of the KGB and the OMON (special police). The **lack of institutional independence** of investigations, the general climate of **impunity** and the absence of a precise definition of torture were also criticized.

Furthermore the Committee was concerned over the lack of judicial independence, the persistence of **violence against women and children**, the dangers which Human Rights Defenders are facing, the practice of trafficking in persons as a country of origin, transit and destination. Also the conditions of detention were discussed with a special focus on persons **sentenced to death** concerning the secrecy and arbitrariness surrounding the execution.

Follow-up recommendations: to provide information in response to the recommendations related to the strengthening of the **legal safeguards** for persons detained, the measures taken to ensure the **impartial investigations** and concrete information about the prosecution and sanctioning in cases concerning **allegations of torture**.

Useful Links:

- [Concluding observations and recommendations of the CAT](#)



BULGARIA

The Committee against Torture expressed its preoccupation about the limited scope of the Bulgarian incorporation of the **definition of torture**, and the **lack of fundamental legal safeguards** in practice, such as access to a lawyer, equal access to justice, especially for minorities.

The preoccupying situation of detainees and persons treated in social institutions has also been mentioned by the Experts, along with concerns about the **excessive use of force and firearms by the police**, which led to the condemnation of Bulgaria by the **European Court of Human Rights** in 2010.

The Committee is also concerned about the weakening of the judicial system and a **lack of transparency and independence**. Finally, measures have to be taken to fight against any type of discrimination and violence against vulnerable groups, especially toward **Roma people**.

Follow-up recommendations: Ensure and reinforce legal safeguards for persons in detention, ensure prompt, independent and **effective investigations**, pursue suspects and sanction perpetrators of acts of torture or ill-treatment.

Useful Links:

- [Concluding observations and recommendations of the CAT](#)



DJIBOUTI

In its concluding observations to Djibouti, the Committee, while welcoming the ratification by the State of **five new international instruments**, expressed concerns over the ongoing practice of torture by law-enforcement officers.

Among the issues raised the Committee notes the lack of an **explicit definition of torture** in the Criminal Code, the gap between the fundamental legal safeguards and the practice, the need to establish a **judicial system for minors** that respects international standards, the implementation of a national and independent monitoring **and inspection mechanism** of all detention centres, the need to secure remedies, reparation and rehabilitation for victims of torture and the strengthening of the fight against ongoing **genital mutilation** of women and girls.

Follow-up recommendations: The Committee asks the State to ensure judicial safeguards for detainees, to conduct **prompt, independent and impartial investigations**, and to effectively sanction the authors of human rights violations, and, finally, to improve the **conditions of detention**.

Useful Links:

- [Concluding observations and recommendations of the CAT](#)



GERMANY

The Committee suggested amendments to the Criminal code regarding the definition of torture and criticized **the scope of monitoring of detention facilities** via the national

prevention mechanism (NPM), which appears to be lacking resources and independence. The Experts also asked the State to clarify the standards in place related to interrogations of **people suspected of terrorist activities** abroad, the receipt of intelligence information from abroad that may be obtained under torture, and the measure taken with regard to the UN report and recommendations on secret detention. It also recommended not rely on diplomatic assurances.

However, the Committee welcomed different cooperation mechanisms put in place, and the effective implementation of **universal jurisdiction** linked with human trafficking, and encouraged the State to build on its efforts. On procedural guarantees, the State should **improve access to complaint mechanisms**, take the necessary measures to ensure that any allegation of torture by the police is immediately investigated, and make sure that the law enforcement officers carry clear identification. The Committee also voiced its preoccupations on the situation of vulnerable groups such as **intersex** people, **refugees**, **non-accompanied minors** and **asylum seekers**.

Follow-up recommendations: Regulations and restricting the use of **physical restraint** in all establishments, limiting the number of detained **asylum seekers**, including the « **Dublin cases**» and provide them with mandatory access to medical examinations, ensure the effective exercise of jurisdiction in line with article 5 of the Convention, provide information on the remedies, including compensation provided to **Khaled El-Masri (rendition case)**, and finally, to ensure that all the agents of the **police of the Länder** are effectively identified and can be held accountable for committing acts of ill-treatment.

Useful Links:

- [Concluding observations and recommendations of the CAT](#)

Follow-up of recommendations:

The Committee against torture asked States parties whose report has been examined during the 47th session to **send information on the follow-up** of the recommendations no later than **November, 25th, 2012**.

SPECIAL FOCUS



SYRIA

The Committee called on the Syrian authorities to provide it with a **special report before March, 9th 2012**, indicating the measures taken to ensure the **effective implementation** of all provisions of the Convention, and to send information about the ongoing events that are taking place on its territory. The special report will be examined during the next session of the Committee, **in May, 2012**.

The request by the Committee, to provide a special report, was taken due to the **serious allegations of widespread and systematic practice of torture, including sexual violence, other gross violations, such as enforced disappearances and summary executions** that are taking place since the beginning of the events in Syria.

Useful Links:

- [Press Release](#) of the Office of the High Commissioner for Human Rights
 - [Report](#) of the Independent international commission of inquiry on the Syrian Arab Republic
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The Meeting of stakeholders on draft general comment on art. 14 (the right of victims to obtain reparation)

On the 22 November 2011 the Committee against Torture invited the representatives of the State parties and the NGO's to present and discuss their views on the project of the draft general comment on article 14 of the Convention against Torture and other cruel, inhuman and degrading treatment. While welcoming the victim-centered approach developed by the Committee, OMCT suggested a strengthening of the draft general comment on five main points. (See submission of OMCT comments below).

Useful Links:

- [Draft General Comment on article 14](#) of the Convention against Torture
 - [Summary of discussions](#) on the occasion of the meeting on 22 November 2011 (in English)
 - [Written contribution](#) of OMCT (in English)
 - [Oral declaration of OMCT](#) on the occasion of the meeting on 22 November 2011 (in English)
-

48th Session of the Committee against Torture (7 May till 1st June 2012)

The Committee accepted to **postpone the consideration of the report of Russia and decided** to examine the reports of the following State parties at its next session:

Albania, Armenia, Cuba, the Czech Republic, Canada, Greece, Rwanda, Mexico, Syrian Arab Republic.

The deadline for NGO submissions of **alternative reports** is **April 20, 2012**.

For the adoption of the « List of Issue prior to reporting » (**LOIPR**), the deadline for contributions of NGOs is the **end of February 2012**.

This concerns those countries scheduled to report in 2013 including: **Azerbaijan, Chile, Salvador, Colombia, Honduras, Israel, Moldavia, New Zealand, Slovakia, Spain and the Philippines.**

WEBCAST – Live Webcast of the CAT session

Together with **Alkarama, Amnesty International, the Human Rights House Foundation (HRHF), the International Rehabilitation Council for Torture Victims (IRCT), the OMCT** has for the first time in the history of the Committee against Torture live webcasted the sessions.

The videos are available under the following link, OMCT will continue webcasting future sessions.
<http://www.ustream.tv/channel/cat-webcast1>

For more information about the activities of OMCT concerning the CAT, follow us online!

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